

Memo

To: Government Oversight Committee Members
From: Beverly A. Zylstra, DIA Legislative Liaison
Date: January 3, 2006
Re: Amusement Devices and Social Gambling

Following discussions at the Government Oversight meeting in September, the Department of Inspections and Appeals (DIA) and the Division of Criminal Investigation (DCI) within the Department of Public Safety were asked to provide information about social gambling requirements and draft legislation related to “special Class “C” liquor licensees having amusement devices and to penalties.

Since that meeting, DIA and DCI have worked together to provide you the following documents, which are attached:

1. Draft legislation to include locations with a “special Class C” liquor license as allowable locations for registered amusement devices. These locations would be required to follow the same statutory and administrative rules provisions as regular Class “C” licensees. If the Committee wants these locations to follow the same special requirements as Class “B” or “C” beer permittees (mainly convenience stores), additional language would be necessary.
2. Draft legislation to address certain Code and rule violations around registered amusement devices as a scheduled violation. This legislation would provide more effective and appropriate options available to DCI for enforcing violations.
3. Two tables showing parameters for social gambling under Iowa Code chapter 99B. The first document shows situations requiring a license, and the other shows situations not requiring a license. Following your review of these tables, we would be available to discuss any additional questions you may have.

Please contact me at 515-281-6442 or beverly.zylstra@dia.state.ia.us with any further questions. For questions related to enforcement, please contact Ross Loder, Department of Public Safety legislative liaison, at 515-281-5043 or loder@dps.state.ia.us.

PROPOSED CHANGES TO 99B.10 AND 99B.10B

Section 99B.10, subsection 4, Code 2005, is amended to read as follows:

4. Each electrical and mechanical amusement device in operation or distributed in this state that awards a prize, as provided in this section, where the outcome is not primarily determined by the skill or knowledge of the operator, is registered by the department as provided by this subsection and is only located on premises for which a class "A", class "B", class "C", special class "C", or class "D" liquor control license or class "B" or class "C" beer permit has been issued pursuant to chapter 123. For an organization that meets the requirements of section 99B.7, subsection 1, paragraph "m", no more than four, and for all other persons, no more than two electrical and mechanical amusement devices registered as provided by this subsection shall be permitted or offered for use in any single location or premises for which a class "A", class "B", class "C", special class "C", or class "D" liquor control license or class "B" or class "C" beer permit has been issued pursuant to chapter 123. Each person owning an electrical and mechanical amusement device in this state shall obtain a registration tag for each electrical and mechanical amusement device owned that is required to be registered as provided in this subsection. Upon receipt of an application and a fee of twenty-five dollars for each device required to be registered, the department shall issue an annual registration tag which tag shall be displayed as required by rules adopted by the department. The application shall be submitted on forms designated by the department and contain the information required by rule of the department. A registration may be renewed annually upon submission of a registration application and payment of the annual registration fee and compliance with this chapter and the rules adopted pursuant to this chapter. However, the number of electrical and mechanical amusement devices registered by the department under this subsection shall not exceed the total number of devices registered by the department as of April 28, 2004. In addition, the department shall not initially register an electrical and mechanical amusement device that is required to be registered as provided in this subsection to an owner for a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 on or after April 28, 2004. A person owning or leasing an electrical and mechanical amusement device required to be registered under this subsection shall only own or lease an electrical and mechanical amusement device that is required to be registered that has been purchased from a manufacturer, manufacturer's representative, or distributor registered with the department under section 99B.10A and shall not advertise or promote the availability of the device to the public as anything other than an electrical and mechanical amusement device pursuant to rules adopted by the department. In addition, an owner at a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall not relocate an amusement device registered as provided in this subsection to a location other than the location of the device on April 28, 2004, and shall not transfer, assign, sell, or lease an amusement device registered as provided in this

subsection to another person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 after April 28, 2004.

Section 99B.10B, subsection 2, Code 2005, is amended to read as follows:

2. The department shall revoke a registration issued pursuant to section 99B.10 or 99B.10A, for a period of ten years following at least ten days' written notice and opportunity for an evidentiary hearing, if a person awards a cash prize in violation of section 99B.10, subsection 1, pursuant to rules adopted by the department. A person whose registration is revoked under this subsection who is a person for which a class "A", class "B", class "C", special class "C", or class "D" liquor control license has been issued pursuant to chapter 123 shall have the person's liquor control license suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a". In addition, a person whose registration is revoked under this subsection who is a person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall have the person's class "B" or class "C" beer permit suspended and that person's sales tax permit suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a".

A BILL FOR

An Act relating to electrical and mechanical amusement devices, and relating to penalties for certain offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Sec. 1. Section 99B.10, Code 2005, is amended to read as follows:

99B.10 ELECTRICAL AND MECHANICAL AMUSEMENT DEVICES.

It is lawful to own, possess, and offer for use by any person at any location an electrical or mechanical amusement device, but only if all of the following are complied with:

1. A prize of merchandise exceeding five dollars in value or cash shall not be awarded for use of the device. However, a mechanical or amusement device may be designed or adapted to award a prize or one or more free games or portions of games without payment of additional consideration by the participant. Any person who violates this subsection:

a. As a first offense commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph b.

b. As a second or subsequent offense commits a serious misdemeanor.

2. An amusement device shall not be designed or adapted to cause or to enable a person to cause the release of free games or portions of games when designated as a potential award for use of the device, and shall not contain any meter or other measurement device for recording the number of free games or portions of games which are awarded.

3. a. An amusement device shall not be designed or adapted to enable a person using the device to increase the chances of winning free games or portions of games by paying more than is ordinarily required to play the game.

b. An amusement device shall not be placed into operation if electronic or mechanical components have been adapted, altered, or replaced and such adaptation, alteration, or replacement changes the operational characteristics of the amusement device, until such time that a new or revised amusement device registration tag is obtained. Any person who violates this paragraph:

(1). As a first offense commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph c.

(2). As a second or subsequent offense commits a serious misdemeanor.

4. a. Each electrical and mechanical amusement device in operation or distributed in this state that awards a prize, as provided in this section, where the outcome is not primarily determined by the skill or knowledge of the operator, is registered by the department as provided by this subsection and is only located on premises for which a class "A", class "B", class "C", or class "D" liquor control license or class "B" or class "C" beer permit has been issued pursuant to chapter 123.

b. For an organization that meets the requirements of section 99B.7, subsection 1, paragraph "m", no more than four, and for all other persons, no more than two electrical and mechanical amusement devices registered as provided by this subsection shall be permitted or offered for use in any single location or premises for which a class "A", class "B", class "C", or class "D" liquor control license or class "B" or class "C" beer permit has been issued pursuant to chapter 123.

c. Each person owning an electrical and mechanical amusement device in this state shall obtain a registration tag for each electrical and mechanical amusement device owned that is required to be registered as provided in this subsection. Upon receipt of an application, which shall be submitted on forms designated by the department and contain information required by rule of the department, and a fee of twenty-five dollars for each device required to be registered, the department shall issue an annual registration tag, ~~which~~

d. The registration tag shall be displayed as required by rules adopted by the department. ~~The application shall be submitted on forms designated by the department and contain the information required by rule of the department.~~ Any person who violates this paragraph:

(1). As a first offense commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph d.

(2). As a second or subsequent offense commits a serious misdemeanor.

e. A registration may be renewed annually upon submission of a registration application and payment of the annual registration fee and compliance with this chapter and the rules adopted pursuant to this chapter. A person owning or leasing an electrical and mechanical amusement device required to be registered under this subsection shall not allow the electrical and mechanical amusement device to be operated or made available for operation with an expired registration. Any person who violates this paragraph:

(1). As a first offense commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph e.

(2). As a second or subsequent offense commits a serious misdemeanor.

f. However, f The number of electrical and mechanical amusement devices registered by the department under this subsection shall not exceed the total number of devices registered by the department as of April 28, 2004. In addition, the department shall not initially register an electrical and mechanical amusement device that is required to be registered as provided in this subsection to an owner for a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 on or after April 28, 2004.

g. A person owning or leasing an electrical and mechanical amusement device required to be registered under this subsection shall only own or lease an electrical and mechanical amusement device that is required to be registered that has been purchased from a manufacturer, manufacturer's representative, or distributor registered with the department under section 99B.10A, ~~and~~

h. A person owning or leasing an electrical and mechanical amusement device required to be registered under this subsection, and an employee of a person owning or leasing an electrical and mechanical amusement device required to be registered under this subsection, shall not advertise or promote the availability of the device to the public as anything other than an electrical and mechanical amusement device pursuant to rules adopted by the department. Any person who violates this paragraph:

(1). As a first offense commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph f.

(2). As a second or subsequent offense commits a serious misdemeanor.

i. In addition, a An owner at a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall not relocate an amusement device registered as provided in this subsection to a location other than the location of the device on April 28, 2004.

j. Any person owning or leasing an electrical and mechanical amusement device required to be registered under this section shall not relocate and place into operation an amusement device in any location other than the location at which the amusement device is registered. Any person who violates this paragraph:

(1). As a first offense commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph g.

(2). As a second offense commits a serious misdemeanor.

k. An owner at a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall not transfer, assign, sell, or lease an amusement device registered as provided in this subsection to another person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 after April 28, 2004.

5. Any awards given for use of an amusement device shall only be redeemed on the premises where the device is located and only for merchandise sold in the normal course of business for the premises. Any person who violates this subsection:

a. As a first offense commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph b.

b. As a second or subsequent offense commits a serious misdemeanor.

6. Each electrical or mechanical amusement device required to be registered as provided by this section shall, by January 1, 2006, include on the device a counting mechanism which establishes the volume of business of the device. The department and the department of public safety shall have access to the information provided by the counting mechanism.

7. Each electrical or mechanical amusement device required to be registered as provided by this section at a location for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall include on the device a security mechanism which prevents the device from being operated by a person until action is taken by the owner or owner's designee to allow the person to operate the device. Any person who violates this subsection:

a. As a first offense commits a simple misdemeanor, punishable as a scheduled violation pursuant to section 805.8C, subsection 4, paragraph h.

b. As a second or subsequent offense commits a serious misdemeanor.

8. Any other requirements as determined by the department by rule. Rules adopted pursuant to this subsection shall be formulated in consultation with affected state agencies and industry and consumer groups.

It is lawful for an individual other than an owner or promoter of an amusement device to operate an amusement device, whether or not the amusement device is owned, possessed or offered for use in compliance with this section.

The use of an amusement device which complies with this section shall not be deemed gambling.

Sec. 2. Section 99B.10B, subsection 2, Code 2005, is amended to read as follows:

2. The department shall revoke a registration issued pursuant to section 99B.10 or 99B.10A, for a period of ten years following at least ten days' written notice and opportunity for an evidentiary hearing, if a person commits a second or subsequent offense of awarding awards a cash prize in violation of section 99B.10, subsection 1, pursuant to rules adopted by the department. A person whose registration is revoked under this subsection who is a person for which a class "A", class "B", class "C", or class "D" liquor control license has been issued pursuant to chapter 123 shall have the person's liquor control license suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a". In addition, a person whose registration is revoked under this subsection who is a person for which only a class "B" or class "C" beer permit has been issued pursuant to chapter 123 shall have the person's class "B" or class "C" beer permit suspended and that person's sales tax permit suspended for a period of fourteen days in the same manner as provided in section 123.50, subsection 3, paragraph "a".

Sec. 3. Section 99B.10C, subsection 2, Code 2005, is amended to read as follows:

2. A person owning or leasing an electrical and mechanical amusement device, and an employee of a person owning or leasing an electrical and mechanical amusement device, who knowingly allows a person under the age of twenty-one years to participate in the operation of an electrical and mechanical amusement device, or a person who knowingly participates in the operation of an electrical and mechanical amusement device, with a person under the age of twenty-one years is guilty of a simple misdemeanor.

Sec. 4. Section 805.8C, subsection 4, Code 2005, is amended to read as follows:

4. *Electrical and mechanical amusement device violations.*

a. For violations of legal age for operating an electrical and mechanical amusement device required to be registered as provided in section 99B.10 , subsection 4, pursuant to section 99B.10C , subsection 1, the scheduled fine is two hundred fifty dollars. Failure to pay the fine by a person under the age of eighteen shall not result in the person being detained in a secure facility.

b. For a first offense of awarding a prize of merchandise exceeding five dollars in value or cash, or awarding a prize on premises other than the premises on which the amusement device is located, as provided in section 99B.10, subsection 1, and as provided in section 99B.10, subsection 5, paragraph a, the scheduled fine is two hundred fifty dollars.

c. For a first offense of placing into operation an amusement device for which electronic or mechanical components have been adapted, altered, or replaced when such adaptation, alteration, or replacement changed the operational characteristics of the amusement device, without obtaining a new or revised amusement device registration tag, as provided in section 99B.10, subsection 3, paragraph b, the scheduled fine is two hundred fifty dollars.

d. For a first offense of failing to display a registration tag as provided in 99B.10, subsection 4, paragraph d, the scheduled fine is two hundred fifty dollars.

e. For a first offense of allowing an electrical and mechanical amusement device to be operated or made available for operation with an expired registration, as provided in section 99B.10, subsection 4, paragraph e, the scheduled fine is two hundred fifty dollars.

f. For a first offense of advertising or promoting the availability of the device to the public as anything other than an electrical and mechanical amusement device, as provided in section 99B.10, subsection 4, paragraph h, the scheduled fine is two hundred fifty dollars.

g. For a first offense of relocating an electronic and mechanical amusement device, as provided in section 99B.10, subsection 4, paragraph j, the scheduled fine is two hundred fifty dollars.

h. For a first offense of failing to include on a device a security mechanism, as provided in section 99B.10, subsection 7, the scheduled fine is two hundred fifty dollars.